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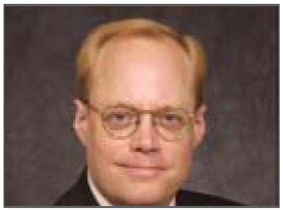

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THE TAX LAWYER

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Officers Of Nonprofits Face Personal Liabilities For Taxes

Image via jan.ocregister.com

"No good deed goes unpunished" is a familiar refrain. You'll feel that way if you go on the board of a nonprofit only to end up footing the bill for the organization's tax problems. And while no tax problem is welcome, it's particularly bad if the tax liability relates to payroll taxes. See Don't Cross IRS On Payroll Taxes.

The IRS takes payroll tax liabilities seriously—especially against signatories holding the bag when the business can't pay. See With Taxes "Responsible" Means Holding The Bag. Whether or not you're an owner, don't sign checks and tax returns and expect to skate if the IRS comes along. See Beware Personal Liability For Employee Taxes. Even the U.S. Supreme Court may turn a deaf ear, letting stand a whopping $11 million in IRS penalties in *Davis v. United States*.

If you're labeled a "responsible person" it means the IRS can pursue you ***personally*** for payroll taxes if the company doesn't pay. This happens to thousands every year. The IRS can assess a Trust Fund Recovery Assessment, also known as a 100% penalty, against every "responsible person." See Section 6672(a).

Anyone with employees knows tax withholdings must be taken and sent to the IRS. Quite rightly, the IRS views this as government money, a trust fund that belongs to the IRS. You can be liable even if have no knowledge the IRS is not being paid. The IRS tends to be unforgiving and the dollars add up quickly.

Charities have to pay payroll taxes too. What's more, even if you're an unpaid volunteer you can be stuck with personal liability. Take the case of Anthony Cuda, who just lost in court. See *United States v. Cuda and Dankis*. Mr. Cuda was the operations director of Seneca Area Emergency Services, Inc. ("SAES"), a nonprofit providing ambulance and emergency medical services.

Turns out the office manager was embezzling and stopped paying bills—including the IRS. Poor old Mr. Cuda was responsible for overseeing day-to-day operations, had authority to sign checks and to provide input on prioritizing SAES's bill payments.

The IRS located Cuda and told him to pay up. Cuda tried everything to get out of it, arguing that:

1. He didn't know the taxes weren't being paid;
2. SAES was going bankrupt, and actually did file for bankruptcy protection; and
3. It was the CFO who should have collected and paid the taxes, not Cuda.

But the court rejected all these arguments. The court said it wasn't in the business of assigning comparative fault. Each responsible person was 100% liable. Since Cuda was the one in court at the moment, he had to pay.

For more, see:

9/11 Excuse Not Enough To Escape IRS Tax Bill

Fail To Pay Payroll Tax: Go To Jail

IRS Pursues Payroll Tax Pyramiding

No Get-Out-Of-Jail-Free Card For Payroll Tax Liability

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